



FEDERAL PUBLIC SERVICE COMMISSION
COMPETITIVE EXAMINATION-2022
FOR RECRUITMENT TO POSTS IN BS-17
UNDER THE FEDERAL GOVERNMENT

Roll Number

CONSTITUTIONAL LAW

TIME ALLOWED: THREE HOURS
PART-I(MCQS): MAXIMUM 30 MINUTES

PART-I (MCQS)
PART-II

MAXIMUM MARKS = 20
MAXIMUM MARKS = 80

- NOTE:** (i) Part-II is to be attempted on the separate Answer Book.
(ii) Attempt **ONLY FOUR** questions from PART-II. ALL questions carry **EQUAL** marks.
(iii) All the parts (if any) of each Question must be attempted at one place instead of at different places.
(iv) Write Q. No. in the Answer Book in accordance with Q. No. in the Q.Paper.
(v) No Page/Space be left blank between the answers. All the blank pages of Answer Book must be crossed.
(vi) Extra attempt of any question or any part of the question will not be considered.

PART – II

- Q. 2. ✓ What do you know about Judicial Review? Explain in detail the land mark cases of judicial review. (20)
- Q. 3. ✓ Explain in detail the Constitutional Law Remedies/Public Law Remedies under Article 199 of the Constitution of Pakistan 1973, available to the aggrieved party. Is there any restriction on the exercise of writ jurisdiction? (20)
- Q. 4. Elaborate the concept of separation of powers in comparative perspective. i.e. UK, Pakistan and U.S. Critically analyze the system of checks and balances provided in the U.S Constitution. (20)
- Q. 5. ✓ Explain the concept of "Supremacy of the Parliament" in UK. Write in detail the process of legislation in the British Parliament. Is there any accountability over the authority of the Parliament in UK? (20)
- Q. 6. What do you know about the Constitutional history of Pakistan? Discuss the judgments delivered in Begum Nusrat Bhutto V Chief of the Army Staff PLD1977SC 657 and Asma Jilani V Government of the Punjab PLD 1972SC 139. What is the impact of these judgements on the various organs of the State? (20)
- Q. 7. ✓ The Constitution of USSR 1936 is characterised with democratic centralism. Critically analyse the relevant provisions of the Constitution paving way to the said assumption. (20)
- Q. 8. ✓ What do you know about the concept of "Fundamental Rights" as provided in the Constitution of Pakistan, 1973? Discuss in detail the newly inserted Fundamental Rights under 18th Amendment in the Constitution of Pakistan, 1973. Do you think the procedure of Amendment in the Constitution is similar to the Act of Parliament. How? (20)

(2022) S. Wadood

Constitution Law

(Q.2)

(1) Introduction:

The concept of judicial review revolves around the principle of checks and balances. It is when the judiciary follows a check on legislature or the executive. This is to protect the sovereignty of the Constitution. The origin from the case of *Marbury v Madison* on the executive appointment took emergence. The US review system can be filed in either court, whereas, the European and Asian Model follows a centralized system. Cases such as *Dorso v Federation*, *Asma Jillani v GOP*, *Zafar Ali Shah v Muskaraf*, and *Imran Khan v Nawaz Sharif* are all judicial review cases.

(2) Concept of Judicial Review:

Judicial review highlights the Courts power to review the actions of legislatures or executive. This concept often takes an extreme turn and paves the path for Judicial Activism. In Pakistan Judicial Activism took emergence, in 2007 with the lawyers protest. Hence, bringing the concept of separation of power back to life.

(3) Pakistani Cases of Judicial Review:

a) Donso v Federation of Pakistan:

The accused was ordered to be punished with death

penalty under the Frontier
Crime Regulation act. However,
the emergence of martial law
identified how the Sindh
High Court laid a wrong
decision. Hence, identifying the
basis of judicial review
on the decision.

b) Asma Tillani v State

The detention of Malik
Ghulam was considered
legal under martial law.
However, the petition was
filed for review laying the
decision that the Constitution
shall be intact and the
detention shall be considered
illegal. Hence, proving the concept
of judicial review in power.

c) Panama Paper Case (Imran Khan v Nawaz Sharif)

The case identifies the true powers of court. It showed how the Court has the authority to disqualify the top executive of Pakistan (Nawaz Sharif) from the post of Prime Minister under Article 62 and 63 of the Constitution of Pakistan.

(4) International Cases on Judicial Review:

a) Marbury v Madison:

The origin of this idea was seen during the case of Marbury v Madison. In this the Court accepted the appeal of

Marbury to allow him to sit in the Commission allocated. Therefore, setting forth a landmark decision for the future.

b) Roe v Wade:

The Court in this case challenged the executive and legislative authority to ban abortion in a State of USA. Therefore, laid the principle as a major violation of Fundamental Rights.

c) Indra Gandhi v Raja Narsim:

The Indian Supreme Court struck down part of 39 amendment in the Constitution in order to protect the power of Judicial review.

(5) Conclusion:

In conclusion, the concept of judicial review highlights the principle of separation of power. The Court of law has the authority to control and restrict the actions of executive and legislative. Cases such as *Mahabub v Mahabub*, *Roze v Hade*, *Indra Handhu*, *Raja Narain*, *Panama Papers*, and *Datta* case highlights the supremacy of concept of checks and balance.



(003)

(1) Introduction:

Constitution of Pakistan 1973 allows the aggrieved party to file a writ before the court under Article 199. It is a written order of command by the judiciary to maintain the rule of law in a state. There are five types of writ. ~~Just~~ These include, Habeas Corpus, Prohibition, Certiorari, Quo Warranto, and Habeas Corpus. However, there are several limitations of writ as well. Such as the locus standi when required only, not against superior court or armed forces etc.

(2) Types of Writs:

a) Mandamus:

This type of writ is mostly seen to exist against the state or office. The purpose of this is to order the office to do the work if not doing. For example, the logging of FIR in police station. Abdul Ghani v Province of Sindh was the case in which the court accepted the writ and ordered the government to release the revision of the aggrieved.

b) Prohibition:

This type of writ is mostly filed when the authority

is using excessive power out of jurisdiction. Therefore, the court acts as a reviewing balance and orders stay on the act or restricts the duty.

c) Certiorari:

This type of writ is filed after the authority or government body has acted upon. Only then the aggrieved party can file before the court. Hence, this is the ground of abuse of powers or lack of jurisdiction (3)

d) Quo Warranto:

This type of writ is against the authority misusing the power. It can either be

Filed by an aggrieved party or non-aggrieved. Only to highlight the misuse of authority.

e) Habeas Corpus:

The writ of Habeas Corpus is filed when the party is wrongfully detained and a speedy release is requested. It could also be filed for the custody of a minor if the guardian restricts it.

(3) Restrictions on writ:

a) Only as a last resort:

The Court emphasises on the idea that, writ should be used as a last resort.

Here, other methods are exhausted first.

b) Only when urgent:

The court can only accept writs if the matter is of threatening or directly threatening fundamental rights.

c) Not on Armed forces or Superior Courts:

Writ cannot be filed against either armed forces or the Superior court in question.

d) Cannot file if in same court:

The case should be of

inferior and different court.
If of the same court it
will lack independence.
and fairness. value 100 (2)

(v) Conclusion:

In short, writ is the principle
to avail justice through speedy
trial. It is filed under
five types ranging from,
Mandamus, Prohibition, Quo Warrants,
Certiorari, and Habeas Corpus.
However, there are certain
restrictions on them as well.
Such as restriction to file
against superior court, or
crimed faces and only
when other remedies have
been exhausted.

(Q.5)

(1) Introduction:

United Kingdom follows the concept of supremacy of the Parliament. As per their tradition, the Parliament has the authority to pass or revoke any law they deem fit. The system of legislation is followed by two houses. The House of Commons, where the bill is presented and passed. Secondly, the House of Lord which has the observatory and review power. Lastly, with the consent of the crown, the legislation is passed. The accountability of the Parliament is not physically embodied. However, the system of review and judicial precedent becomes one type.

(2) Concept of Supremacy of Parliament:

The Parliament in the UK follows a bi-cameral system. The vein of democracy and restriction on the monarchy has made the Parliament a Supreme body. The laws and matters are said to be favored with the acceptance of public, hence, protecting democracy. It is so widely accepted that even if the Parliament passes the law to "kill all blue eyed babies," it would be enforced. Hence, proving the supremacy of the UK Parliament.

(2) Process of legislation:

Bill Presented (for Law)

↓
Lower House

↓
Upper House.

↓
Crown's Agent. → Enforced.

The process of legislation being passed: in the UK starts with a bill presented in the lower house of the Parliament. House of Commons (Lower house) then votes on the acceptance of the bill. When accepted, it is sent to the Upper House (House of Lords). In this it is again debated and passed. Lastly, the Crown is sent the bill to sign and assent on its passing. Hence, making it enforceable.

(4) Accountability of Parliament

=> Justice C

- a) Judiciary:
- b) PM questions:
- c) Media:
- d) Public will:

a) Judiciary:

The judiciary plays an important role in maintaining a balance in parliamentary law.

"Role of the Judiciary is not to make law but to implement it"

- William Blackstone

However, whenever a law is not suitable for the case then the judge has the power to make law by laying precedent.

b) PM Questions:

The PM unlike the US is the member of the Parliament. Therefore, the PM has the right to question the making of law and its necessity.

c) Media:

Media on the other hand also has the right to question the validity, purpose, and use of law passed by the Parliament. Therefore, making it accountable.

d) Public: will:

Lastly, the Parliament is supreme due to democracy being present. Hence, the

Public's will is utmost importance to the Parliament. In case of ignoring the public will, the result would be lack of votes in next general election. Hence, giving a check on the Parliament.

(5) Conclusion:

In conclusion, the concept of Supremacy of Parliament is present to protect the democracy in the UK. The legislation system is followed by bi-cameral system. There of Commons and House of Lords are seen as a path towards passing of law. However, there is still accountability present. With PM Question, Judiciary's role to media and public.

CO.7

(1) Introduction:

(2) Concept of Democratic Centralism:

- ↳ Vladimir Lenin.
- ↳ Centralism of democracy.
- ↳ Single party system
- ↳ Communism
- ↳ Elected Soviets Council
- ↳ No pluralism.
- ↳ Suppression of rights.

(3) Provisions:

- ↳ Council (Art. 30-35)
- ↳ Centralized (Art. 49-70)
- ↳ One party (not directly)
- ↳ Citizen rights (Art. 118-133)

(4) Conclusion: